

In the Matter of Merchant Mariner's Document No. Z-1119453-D1 and  
all other Seaman Documents  
Issued to: RICHARD BLEDSOE

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1445

RICHARD BLEDSOE

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 20 August 1963, an Examiner of the United States Coast Guard at San Francisco, California revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that, on or about 29 April 1963, Appellant was convicted, on his plea of guilty, by the United States District Court for the Northern District of California, Southern Division, a court of record, for violation of Title 26, U. S. Code, section 4744(a) (unlawful possession of marijuana), a narcotic drug law of the United States.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence a certified copy of the judgment and order of probation to prove the alleged conviction. Appellant had been represented by counsel before the court and he was found guilty of possessing five marijuana cigarettes without having paid the tax imposed by law. He was sentenced to imprisonment for one year but execution of the sentence was suspended and Appellant was placed on probation for a period of five years pursuant to 18 U. S. Code, section 5010(a) (Federal Youth Corrections Act).

Appellant's Probation Officer testified on behalf of the defense. He stated that Appellant claimed he obtained the marijuana cigarettes in order to try them out of curiosity and that the District Court judge said it was his hope that something could be done for this young man.

On appeal, it is urged that 26 U. S. Code 4744(a) is a revenue

law which provides for payment of a transfer tax on marijuana and it is not a narcotic drug law within the meaning of 46 U. S. 239b. Counsel also contends that it was an abuse of discretion to charge Appellant because the regulations (46 CFR 137.03-10(a)) require the examiner to enter an order of revocation after a narcotic drug law conviction has been proved; the latter regulation constitutes a violation of due process of law since 46 U. S. Code 239b provides that action "may" be taken to revoke a seaman's document after proof that he has been convicted in a court of record for a violation of a narcotic drug law.

#### OPINION

The matters presented on appeal were carefully considered by the Examiner and very ably disposed of in his decision. Hence, there is no need to repeat his detailed discussion of these points wherein he states that 26 U.S. Code 4744(a) is a law to control the acquisition of marijuana although it was enacted under the power of Congress to impose taxes, and that the mandatory requirement that a hearing examiner revoke a seaman's document, after proof of a narcotic drug law conviction, is a legitimate delegation of authority from the Commandant.

Title 26 U.S. Code 4744(a) makes it unlawful for a person to obtain marijuana without having paid a transfer tax or to thereafter transport or conceal such marijuana. As stated by the Examiner, this is a narcotic drug law within the meaning of 46 U.S. Code 239b because it refers directly to marijuana and, by definition in 46 U.S. Code 239a, marijuana is specifically included within the meaning of "narcotic drug laws" as used in 46 U.S. Code 239b. See Commandant's Appeal Decisions Nov. 1361, 1274 and 1004 for cases upholding revocations based on convictions under 26 U.S. Code 4744(a).

It is my opinion that there was no abuse of discretion in charging Appellant since it has been the consistent policy of the Coast Guard to revoke a seaman's document when he has become involved with narcotics or marijuana. Such a person is considered to constitute a serious threat to safety at sea. When the discretionary function to take action has been properly exercised, 46 U.S. Code 239b does not provide for any order other than revocation if the conviction alleged is proved. See Commandant's Appeal Decisions Nos. 1274 and 1004.

#### ORDER

The order of the Examiner dated at San Francisco, California,  
on 20 August 1963, is AFFIRMED.

E. J. Roland  
Admiral, United States Coast Guard  
Commandant

Signed at Washington, D. C., this 13th day of February 1964.